

Pf. 6

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 CORPORATION dba AMTRAK and JOE DEELY

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8
9 UNITED STATES DISTRICT COURT

10 NORTHERN DISTRICT OF CALIFORNIA

11 JOHN EARL CAMPBELL,
 12 Plaintiff,

13 v.

14 NATIONAL RAILROAD PASSENGER
 15 CORPORATION dba AMTRAK, JOE DEELY,
 and DOES 1-15, inclusive,

16 Defendants.

17 Case No. C05-05434 MJJ

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**DECLARATION OF CARA CHING-
 SENAHA IN SUPPORT OF
 DEFENDANTS' NATIONAL
 RAILROAD PASSENGER
 CORPORATION'S AND JOE DEELY'S
 MOTION FOR SUMMARY
 JUDGMENT, OR IN THE
 ALTERNATIVE, SUMMARY
 ADJUDICATION**

[Notice of Motion, Memorandum of Points
 and Authorities, and Declarations in
 Support of Motion concurrently filed]

Date: May 8, 2007
 Time: 9:30 a.m.
 Courtroom: 11
 Floor: 19
 Judge: The Hon. Martin J. Jenkins

Complaint Filed: 12/30/05
 FAC Filed: 2/23/06
 Trial Date: 7/23/2007

[Fed.R.Civ.Proc. 56]

I, Cara Ching-Senaha, declare on the basis of personal knowledge:

1. I am an attorney with the law firm of Jackson Lewis LLP, counsel of record for
 Defendants NATIONAL RAILROAD PASSENGER CORPORATION dba AMTRAK and JOE

1 DEELY. I am licensed to practice law in the above-referenc
2 following statements based on personal knowledge.

3 2. I have reviewed in its entirety the transcript for Mr. John Campbell's deposition,
4 taken February 26, 2007. Attached hereto as Exhibit A are true and correct copies of select pages
5 from Mr. Campbell's deposition and select deposition exhibits, as referenced in Defendants'
6 Memorandum of Points and Authorities.

7 3. I have reviewed in its entirety the transcript for Susan Venturelli's deposition,
8 taken March 23, 2007. Attached hereto as Exhibit B are true and correct copies of select pages
9 from Ms. Venturelli's deposition, as referenced in Defendants' Memorandum of Points and
10 Authorities.

11 4. I have reviewed in its entirety the transcript for Joseph Deely's deposition, taken
12 February 15, 2007. Attached hereto as Exhibit C are true and correct copies of select pages from
13 Mr. Deely's deposition, as referenced in Defendants' Memorandum of Points and Authorities.

14 Executed this 3rd day of April, 2007 in San Francisco, California. I declare under penalty
15 of perjury under the laws of California and the United States of America that the foregoing is true
16 and correct.

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18 Cara Ching
19 CARA CHING-SENAHA
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1 Amtrak would have to have a safe work record, correct? 05:16:25
2 A. Correct.
3 Q. Okay. After June 1999, sir, did you again
4 ever apply for an engineer position at Amtrak?
5 A. Yes. 05:16:49
6 Q. When was that?
7 A. Every six months, twice a year.
8 Q. Okay. And how did you submit those
9 applications?
10 A. Fax and mail. 05:16:58
11 Q. To the L.A. HR?
12 A. (Nods head.)
13 Q. Got to say the word.
14 A. Oh. Yes.
15 Q. Okay. And, sir, when you did that, did you
16 keep a copy of your application? 05:17:06
17 MS. PRICE: Objection. Vague; overbroad.
18 THE WITNESS: No.
19 MS. MAYLIN: Q. Okay. Well, did you do it
20 every six months just as a matter of routine regardless
21 of what was posted, or did you do it in response to
22 seeing a posting? 05:17:20
23 A. I did it in response to seeing a posting.
24 Q. Okay. So, let's see, you saw a posting in
25 June '99, and you sent in your fax, right? 05:17:33

1 MS. MAYLIN: Just a moment. 05:28:59

2 (Discussion off the record.)

3 MS. MAYLIN: Q. Okay. So Mr. -- or Jason was

4 lackadaisical in your opinion --

5 A. Yeah. 05:29:31

6 Q. -- and Mr. Poitier was just not smart?

7 A. Yeah.

8 Q. Okay. And, sir, what makes you think that

9 they had less seniority than you?

10 A. Well, the seniority roster told me. 05:29:43

11 Q. Okay. But we have agreed, haven't we, that

12 seniority has nothing to do with whether or not an

13 individual is hired into an engineer position, correct?

14 MS. PRICE: Objection. Misstates the

15 witness's testimony. 05:29:56

16 THE WITNESS: Yeah.

17 MS. MAYLIN: Q. I think we talked about that

18 there's no bid nights, right?

19 A. We talked about it, yes.

20 Q. Okay. Is that true? 05:30:05

21 A. Is what true?

22 Q. There's no bid nights, yes.

23 A. Oh, there is no bid nights, yes.

24 Q. Okay. So seniority really doesn't matter

25 there, does it? 05:30:14

1 MS. PRICE: Objection. Misstates the
2 witness's testimony.
3

05:30:15

4 THE WITNESS: Yeah. Seniority and bid rights
5 are two different things.
6

7 MS. MAYLING: Q. Oh, all right. Well, let me
8 ask you, as far as you understand, is there any
9 requirement that Amtrak only hire, or first hire
employees into an engineer position from a conductor
position based on length of service?
10

05:30:21

11 A. No.
12

05:30:40

13 Q. Okay. All right. Did you -- so we're up to
November '03. Thus far, sir, have you had any
interviews for an engineer position?
14

A. I had one.
15

05:31:00

16 Q. When was that?
17

A. I think either December '02 or January '03.
18

Q. Okay. Who did you interview with?
19

A. I know one was Rich Barnes. And I cannot
remember the other two. But Rich Barnes was definitely
one of them.
20

05:31:24

21 Q. Okay. Can you describe the other two?
22

A. They was Caucasian, and they were engineers.
23 One was a union rep. That was Rich. And the other two
24 were engineers.
25

05:31:36

Q. Okay. All right. And you think that was in

1 A. I spoke to him.

05:41:31

2 Q. Meaning, hello, how you doing or --

3 A. Lou Bellotti introduced the crew one morning,
4 and he said, "That's my night crew: Ray Clarke, John
5 Campbell, Lars Michelson."

05:41:42

6 And I had said, "Hi, Joe." I don't think he
7 liked that. I think I was supposed to say, "Hi,
8 Mr. Deely."

9 Q. Okay. Did you have any other communications
10 with him?

05:42:03

11 A. I left him a message on his phone a couple of
12 times, when I had a problem with -- a mechanical
13 problem. I called him directly.

14 Q. Did he call you back?

15 A. No.

05:42:10

16 Q. Okay. All right. What information do you
17 have, Mr. Campbell, that Mr. Deely had any influence on
18 your termination?

19 A. All I have is word of mouth, you know.

20 Q. Okay. And who told you that Mr. Deely had
21 anything to do with your termination?

05:42:26

22 MS. PRICE: I'm going to have to instruct --
23 I'm compelled to instruct the witness, do not disclose
24 any conversations with counsel. She's asking you about
25 conversations you've had with people outside of

05:42:41

1 You know how you hear things, you know, so... 05:43:57

2 Q. So just little bits and pieces of --

3 A. Yes.

4 Q. -- small talk out there?

5 A. Yes. 05:44:05

6 Q. Okay. All right. Okay. How about this now, again with Mr. Deely, do you have any information, sir, that Mr. Deely had any influence on whether or not you were promoted to engineer during the times you applied for an engineer position? 05:44:22

11 A. No. No. Nothing like on paper, or concrete evidence as you called it, no.

13 Q. Well, did anybody tell you that or --

14 A. I just told you the Chad Skinner story.

15 MS. PRICE: And other than what he's already testified to? 05:44:39

17 MS. MAYLIN: Right.

18 Q. Chad Skinner told you after you applied the last time. Was there any other time that you heard that Mr. Deely had anything to do with the decision making as far as your application for an engineer position? 05:44:49

22 A. No.

23 Q. Now, from the June 2004 application that you made, sir, do you know who -- which employees were given an engineer position in '04, after that time? 05:45:21

1 A. Again, the seniority list would tell you that, 05:45:27
2 but I know it was five people this time.

3 Q. Okay. How about their races, do you know 05:45:53
4 their races?

5 A. Four were Caucasian and one was Vietnamese. 05:45:53

6 Q. Okay. So the first time you filed a DFEH 05:46:31
7 charge or EEOC charge was January '04; I think we talked
8 about. Did you have any communication with anybody
9 within Amtrak about the fact that you had filed a DFEH
10 charge, or I'm sorry. I think at that time it was an
11 EEOC charge. Did you have any communication with
12 anybody about that?

13 A. No supervisors.

14 Q. Okay. Well, how about co-workers?

15 A. Probably. 05:46:44

16 Q. What makes you say "probably"?

17 A. You know, frustration. Vent. You talk to 05:46:44
18 people.

19 Q. So you mentioned it to some co-workers?

20 A. Yes. 05:46:56

21 Q. All right. Other than that, did you have any 05:47:12
22 communication with anybody within Amtrak about the fact
23 that you filed that EEOC charge in 2004, January 2004?

24 A. Supervisor-wise, I don't think so.

25 Q. Yeah. How about anybody from HR?

1 A. No.

2 Q. All right. Anybody from administration?

3 A. I don't believe so.

4 Q. Okay. Do you have any information that

5 anybody at Amtrak even knew that you had filed a -- an

6 EEOC charge in January '04?

7 MS. PRICE: I'm going to object and instruct

8 the witness again.

9 You have to filter out any questions when she

10 says any information.

11 I object. The question is overbroad. It

12 seeks to invade the attorney-client privilege.

13 I will allow you to answer the question, but

14 you cannot -- you cannot disclose any communications

15 between you --

16 THE WITNESS: Between you and me.

17 MS. PRICE: Right. Any conversation with me

18 or anybody in my office.

19 THE WITNESS: Okay. Repeat the question.

20 MS. MAYLIN: Could you reread it? Thank you,

21 Sharon.

22 (Whereupon, the record was read as follows:

23 "Question: Do you have any information

24 that anybody at Amtrak even knew that you

25 had filed a -- an EEOC charge in January

05:47:15

05:47:26

05:47:42

05:47:54

05:48:05

05:48:07

1 '04?") 05:48:07

2 THE WITNESS: I would assume EEOC sent them a
3 copy of my complaint.

4 MS. MAYLIN: Q. Okay. I'm not asking for
5 your assumption, Mr. Campbell. Do you have any
6 information that anybody at Amtrak knew that you filed
7 it?

8 MS. PRICE: Well, I'm going to object. The
9 question is argumentative. He's given you his response,
10 so you want to answer -- 05:48:48

11 Do you have some other information you can
12 give her?

13 THE WITNESS: No.

14 MS. MAYLIN: Q. Okay. All right. Is there
15 any other time, Mr. Campbell, that you can recall
16 applying for an engineer position at Amtrak? 05:49:03

17 A. I think we've covered all of it.

18 Q. Okay. Let me ask you this, Mr. Campbell. Do
19 you have any information that you -- your filing an EEOC
20 charge in January '04 had any bearing on Amtrak's
21 decision to terminate you in September of '04? 05:49:35

22 MS. PRICE: I'm going to object. The question
23 is overbroad. It calls for a legal conclusion. It
24 lacks foundation, calls for speculation. Also, to the
25 extent it's overbroad, I'm going to ask -- have to 05:50:00